

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Paul Wallace

Application No.: 10/558,578

Confirmation No.: 6629

Filed: February 1, 2006

Art Unit: 1796

For: POLYMER

Examiner: D. Truong

RESPONSE TO RESTRICTION REQUIREMENT

MS Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Madam:

In response to the restriction requirement set forth in the Office Action mailed February 24, 2009, applicant hereby provisionally elects Group III, claims 11-12 for continued examination, with traverse.

The Examiner requests that we elect one of the following inventions:

Group I, claim(s) 1-3 drawn to a monomer.

Group II, claim(s) 4-10, drawn to a process for preparing a polymer using said monomer.

Group III, claim(s) 11-12, drawn to a copolymer.

Group IV, claim(s) 13, drawn to an optical device.

Group V, claim(s) 14, drawn to a method of forming an optical device.

Group VI, claim(s) 15-17, drawn to a devices using copolymer of group III.

The Examiner also requires us to elect a species or invention to be examined and also indicate the claims encompassing the elected invention. If the applicant is required to elect a single disclosed species the applicant elects polymer 1 of the polymer examples of the present

application as the single disclosed species. The applicant points out that claims 11 and 12 read on the elected species.

The Commissioner may require restriction if two or more independent and distinct inventions are claimed in a single application (37 CFR 1.142(a)). In the present case, although the claimed subject matter may be classified in different classes, the inventions are not independent.

If the Examiner is aware of another method to make the product as claimed, using a process which is materially different from that set forth in the restricted claims, applicant respectfully requests the Examiner to substantiate his position in greater detail. Otherwise, it is respectfully requested that the restriction requirement be withdrawn, and that each of claims 1-17 presently pending in this application be examined.

Applicants respectfully traverse the Restriction requirement because the U.S. Patent and Trademark Office has not carried forward its burden of proof to establish distinctness.

In particular, MPEP § 803 states:

If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.

For the above reasons, this restriction requirement should be withdrawn.

The applicant notes that when the claims of Group III are found allowable, the applicant clearly believes that at least group VI should be rejoined.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 03-2775, under Order No. 14113-00065-US from which the undersigned is authorized to draw.

Dated: March 17, 2009

Respectfully submitted,

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Ashley I. Pezzner

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